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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,578	06/25/2003	Alan W. Bagley	331-001CIP2	3348

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EXAMINER

TANNER, HARRY B

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,578

Applicant(s)

BAGLEY, ALAN W.

Examiner

Harry B. Tanner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 18-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Applicant's election with traverse of the invention of Group I in the reply filed on 2/1/05 is acknowledged. The traversal is on the ground(s) that all the independent claims recite the limitation of a manifold. This is not found persuasive because the independent claims of Group I recite the limitation of a manifold without reciting any specific structure of the manifold nor how it is connected to the complete refrigeration system circuit.

The requirement is still deemed proper and is therefore made FINAL.

Claims 18-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/1/05.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 6 recite the alternative limitation of "coupled to the inlet of the evaporator or to an inlet of a manifold". It is not clear that these are equivalent structural elements and therefor should not be recited as alternative structural elements of the claimed invention. Furthermore, there is no recitation in the claims as to how the manifold relates to the rest of the refrigeration system circuit. Claim 6 recites a timer capable of sending a signal to the controller twice (at lines 15-16 and line 19 respectively).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 8-10 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kusuda et al. Kusuda discloses a refrigeration system having a hot gas bypass defrost line controlled by a timer signal 7 and an ice detecting temperature sensor 6 such that the timer starts opens the hot gas bypass and the temperature sensor causes the hot gas line to be closed when the removal of the ice is detected (see col. 2, lines 31-55).

Claims 1, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Warneke. Warneke discloses a refrigeration system having a hot gas bypass defrost line controlled by a timer 38-44 that starts and stops the defrost operation (see page 2, col. 1, line 43 to col. 2, Line 13).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kusuda et al applied to claim 1 above, and further in view of Kimura et al. Kimura teaches the use of a manifold 11 that with a plurality of outlets 12 in order to couple the hot gas bypass line to a plurality of different locations 9a on the evaporator surface. It would have been

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obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Kusuda such that it included the use of a manifold that with a plurality of outlets in order to couple the hot gas bypass line to a plurality of different locations on the evaporator surface in view of the teachings of Kimura.

Claims 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusuda et al as applied to claim 8 above, and further in view of Hansen. Hansen teaches the use of an ice detecting temperature sensor 9 in order to start a defrost operation (see col. 3, lines 37-58). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Kusuda such that the ice detecting temperature sensor starts the defrost operation in view of the teachings of Hansen.

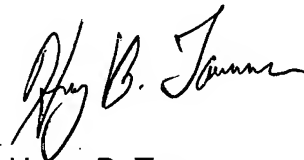
Claims 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusuda et al and Hansen as applied to claim 11 above, and further in view of Warneke. Warneke teaches the use of timer in order to stop a defrost operation (see page 2, col. 2, lines 1-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Kusuda such that the timer stopped the defrost operation in view of the teachings of Warneke.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-4813. The examiner can normally be reached 8:30 am to 6:00 pm Monday, Tuesday, Wednesday and Friday and 2:00 pm to 6:00 pm Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel, can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Harry B. Tanner", is positioned above the printed name.

Harry B. Tanner
Primary Examiner
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